

COMMERCE COMMUNITY DEVELOPMENT COMMISSION

ASSET TRANSFER REVIEW

Review Report

January 1, 2011, through January 31, 2012



BETTY T. YEE
California State Controller

April 2015



BETTY T. YEE
California State Controller

April 30, 2015

Vilko Domic, Director of Finance
City of Commerce/Successor Agency
2535 Commerce Way
Commerce, CA 90040

Dear Mr. Domic:

Pursuant to Health and Safety Code section 34167.5, the State Controller's Office (SCO) reviewed all asset transfers made by the Commerce Community Development Commission (RDA) to the City of Commerce (City) or any other public agency after January 1, 2011. This statutory provision states, "The Legislature hereby finds that a transfer of assets by a redevelopment agency during the period covered in this section is deemed not to be in furtherance of the Community Redevelopment Law and is thereby unauthorized." Therefore, our review included an assessment of whether each asset transfer was allowable and whether the asset should be turned over to the Successor Agency.

Our review applied to all assets including, but not limited to, real and personal property, cash funds, accounts receivable, deeds of trust and mortgages, contract rights, and rights to payment of any kind. We also reviewed and determined whether any unallowable transfers to the City or any other public agency have been reversed.

Our review found that the RDA transferred \$144,622,301 in assets after January 1, 2011, including unallowable transfers to the City totaling \$698,875, or less than 1% of transferred assets. These assets must be turned over to the Successor Agency.

If you have any questions, please contact Elizabeth González, Chief, Local Government Compliance Bureau, by telephone at (916) 324-0622.

Sincerely,

Original signed by

JEFFREY V. BROWNFIELD, CPA
Chief, Division of Audits

JVB/lS

Attachment

cc: Lilia R. Leon, Oversight Board Chair
City of Commerce
John Naimo, Acting Auditor-Controller
Los Angeles County
David Botelho, Program Budget Manager
California Department of Finance
Richard J. Chivaro, Chief Legal Counsel
State Controller's Office
Elizabeth González, Bureau Chief
Division of Audits, State Controller's Office
Reginald Nidoy, Audit Manager
Division of Audits, State Controller's Office
Cecilia Michaels, Auditor-in-Charge
Division of Audits, State Controller's Office

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Attachment—City’s Response to Draft Review Report

Asset Transfer Review Report

Summary

The State Controller's Office (SCO) reviewed the asset transfers made by the Commerce Community Development Commission (RDA) after January 1, 2011. Our review included, but was not limited to, real and personal property, cash funds, accounts receivable, deeds of trust and mortgages, contract rights, and rights to payments of any kind from any source.

Our review found that the RDA transferred \$144,622,301 in assets after January 1, 2011, including unallowable transfers to the City of Commerce (City) totaling \$698,875, or less than 1% of transferred assets. These assets must be turned over to the Successor Agency.

Background

In January of 2011, the Governor of the State of California proposed statewide elimination of redevelopment agencies (RDAs) beginning with the fiscal year (FY) 2011-12 State budget. The Governor's proposal was incorporated into Assembly Bill 26 (ABX1 26, Chapter 5, Statutes of 2011, First Extraordinary Session), which was passed by the Legislature, and signed into law by the Governor on June 28, 2011.

ABX1 26 prohibited RDAs from engaging in new business, established mechanisms and timelines for dissolution of the RDAs, and created RDA successor agencies and oversight boards to oversee dissolution of the RDAs and redistribution of RDA assets.

A California Supreme Court decision on December 28, 2011 (*California Redevelopment Association et al. v. Matosantos*), upheld ABX1 26 and the Legislature's constitutional authority to dissolve the RDAs.

ABX1 26 was codified in the Health and Safety (H&S) Code beginning with section 34161.

H&S Code section 34167.5 states in part, "... the Controller shall review the activities of redevelopment agencies in the state to determine whether an asset transfer has occurred after January 1, 2011, between the city or county, or city and county that created a redevelopment agency or any other public agency, and the redevelopment agency."

The SCO identified asset transfers that occurred after January 1, 2011, between the RDA, the City and/or any other public agency. By law, the SCO is required to order that such assets, except those that already had been committed to a third party prior to June 28, 2011, the effective date of ABX1 26, be turned over to the Successor Agency. In addition, the SCO may file a legal action to ensure compliance with this order.

Objective, Scope, and Methodology

Our review objective was to determine whether asset transfers that occurred after January 1, 2011, and the date upon which the RDA ceased to operate, or January 31, 2012, whichever was earlier, between the city or county, or city and county that created an RDA, or any other public agency, and the RDA, were appropriate.

We performed the following procedures:

- Interviewed Successor Agency personnel to gain an understanding of the Successor Agency's operations and procedures.
- Reviewed meeting minutes, resolutions, and ordinances of the City, the RDA, the Successor Agency, and the Oversight Board.
- Reviewed accounting records relating to the recording of assets.
- Verified the accuracy of the Asset Transfer Assessment Form. This form was sent to all former RDAs to provide a list of all assets transferred between January 1, 2011, and January 31, 2012.
- Reviewed applicable financial reports to verify assets (capital, cash, property, etc.).

Conclusion

Our review found that the Commerce Community Development Commission transferred \$144,622,301 in assets after January 1, 2011, including unallowable transfers to the City of Commerce totaling \$698,875, or less than 1% of transferred assets. These assets must be turned over to the Successor Agency.

Details of our finding are described in the Finding and Order of the Controller section of this report.

Views of Responsible Officials

We issued a draft review report on August 8, 2014. Vilko Domic, City Director of Finance, responded by letter dated September 5, 2014. The City's response references a finding related to a bond payment. This item was subsequently eliminated. The City's response is included in this final review report as an attachment.

Restricted Use

This report is solely for the information and use of the City of Commerce, the Successor Agency, the Oversight Board, and the SCO; it is not intended to be and should not be used by anyone other than these specified parties. This restriction is not intended to limit distribution of this report, which is a matter of public record when issued final.

Original signed by

JEFFREY V. BROWNFIELD, CPA
Chief, Division of Audits

April 30, 2015

Finding and Order of the Controller

FINDING— Unallowable asset transfers to the City of Commerce

The Commerce Community Development Commission (RDA) made unallowable asset transfers of \$698,875 to the City of Commerce (City). The transfers occurred after January 1, 2011, and the assets were not contractually committed to a third party prior to June 28, 2011.

On various dates throughout 2011, the RDA transferred a total of \$698,875 in cash to the City. The payments represented interest-only payments on multiple long-term loans from the City. No principal payments were noted as being paid.

Pursuant to Health and Safety (H&S) Code section 34167.5, the RDA may not transfer assets to a city, county, city and county, or any other public agency after January 1, 2011. The assets must be turned over to the Successor Agency for disposition in accordance with H&S Code section 34177(d).

Order of the Controller

Pursuant to H&S Code section 34167.5, the City is ordered to reverse the transfer of the assets in the amount of \$698,875, and turn over the assets to the Successor Agency. The Successor Agency is directed to properly dispose of the assets in accordance with H&S Code sections 34177(d).

City's Response

We believe that \$44,352 of the \$743,227 identified as unallowable transfers should be allowed. This amount was used to pay our 2007 bonds, which we believe is an allowable transfer.

Our understanding from discussions with the SCO is that HSC 34167.5 prevented the RDA from transferring cash to the City during the review period (January 1, 2011 through January 31, 2012) even for payments of bonded indebtedness and the City will have to return the cash to the Successor Agency.

SCO's Response

The City provided additional information to support the additional payment of \$44,352. This amount was removed from the Finding and Order of the Controller. Therefore, the remaining \$698,875 in unallowable transfers must be turned over the Successor Agency.

**Attachment—
City’s Response to
Draft Review Report**



CITY OF COMMERCE

Department of Finance
Vilko Domic, Director

September 5, 2014

Elizabeth Gonzalez
Chief, Local Government Compliance Bureau
State Controller's Office
Division of Audits
P.O. Box 942850
Sacramento, CA 94250-5874

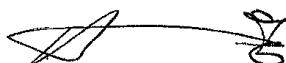
RE: Commerce Redevelopment Agency Asset Transfer Review

Dear Ms. Gonzalez:

We believe that \$44,352 of the \$743,227 identified as unallowable transfers should be allowed. This amount was used to pay our 2007 bonds, which we believe is an allowable transfer.

Our understanding from discussions with the SCO is that HSC 34167.5 prevented the RDA from transferring cash to the City during the review period (January 1, 2011 through January 31, 2012) even for payments of bonded indebtedness and the City will have to return the cash to the Successor Agency. As recourse, the City can add this payment to a future ROPS. Once the ROPS is approved by the DOF the \$44,352 can be repaid to the City by the Successor Agency. Based on this information, the City will accept the findings of the report and will obtain the repayment of the \$44,352 from the Successor Agency through the ROPS process.

Sincerely,


Vilko Domic
Director of Finance

DS/Letters/Vilko/State Controllers/Lt RDA Asset Transfer Review 9-5-14

**State Controller's Office
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Sacramento, CA 94250-5874**

<http://www.sco.ca.gov>